0.48 percent of the access minutes that MCI terminated in Louisiana in June 1998 (the most recent month for which data is available). See Declaration of Carol Innis, ¶ 4 (ex. H).[69] Needless to say, local competition is still in its infancy.

MCI's terminating access data showing a CLEC market share of less than one percent is confirmed by BellSouth's own statistics. BellSouth claims that 4,282 loops are now controlled by competing facilities-based carriers in Louisiana. BST Br. 6. BellSouth owned 2,256,180 loops in Louisiana as of December 31, 1997.[70] Even ignoring the growth in BellSouth's loops during 1998 and BellSouth's systematic undercounting of its own access lines,[71] less than 0.19 percent of the loops in BellSouth's Louisiana service area are controlled by CLECs. Moreover, the 44,000 lines that BellSouth claims to have provided to resellers amount to less than 2 percent of BellSouth's total loops. Because resale does not affect competition in the wholesale telecommunications market, resale activity is not an appropriate indicator of actual local competition. See Baseman Decl. ¶¶ 41-42 (ex. G).

Indeed, BellSouth's own region-wide data reveal that its revenue from vertical features increased 19% from one year ago, its revenue from high capacity lines increased a staggering 44% over the prior year, its interstate access revenues increased over the prior year, and its total numbers of both residential and business lines increased over the prior year -- all leading to over $2.3 billion in local service revenues in the second quarter of 1998 alone.[72] For example, to illustrate the complete absence of

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69/ BellSouth and other ILECs terminated 99.32 percent of all switched access minutes for June 1998, while wireless carriers terminated 0.20 percent. See id.

70/ See FCC, "Responses to CCB Survey on the State of Local Competition," http://www.fcc.gov/ccb/local_competition/survey/responses (downloaded June 11, 1998) (statistics contained in downloadable file "lecpub97.pdf"; survey response for BellSouth, Louisiana, item A.4).

71/ See Merrill Lynch, "The Business Line Migration Phenomenon: The Numbers Don't Lie, ILEC Line Growth Remains Robust, " app. (June 12, 1998) (ex. CC) (showing that the BOCs systematically undercount their access lines by ignoring non-switched and high-speed data lines and by failing to count voice grade equivalents when compiling line statistics).

72/ See http://www.bellsouthcorp.com/investor/download/data.html (downloaded July 27, 1998).

competitive pressure on BellSouth, and the impact on Louisiana consumers, BellSouth managed to increase its rate for caller ID from $6.00 per month in 1997 to $7.00 per month in 1998. See ex. DD.[73] Every relevant indicator shows that BellSouth's control over the local market remains unchecked.

BellSouth also attempts to show that it faces local competition by providing data concerning PCS usage. See BST Br. iii. Yet for numerous technological and price reasons, PCS is not a realistic substitute for standard wireline service. See supra Part I.B. Even crediting BellSouth's dubious data, PCS usage represents only 0.40 percent of BellSouth's total loops in Louisiana. See supra n.8. Summing the data provided by BellSouth as to loops controlled by wireline CLECs and PCS usage, non-ILECs control less than 0.60 percent of the loops that BellSouth controls. That alone should be dispositive of the public interest inquiry: Louisiana consumers do not have a choice of local service providers.[74]

B. The Only Plausible Explanation for the Lack of Local Competition is BellSouth's Refusal to Open Its Market.

BellSouth's contention that competitors are avoiding local entry in order to prevent BellSouth from gaining long-distance authorization has already been thoroughly debunked. At the heart of BellSouth's argument is a glaring logical flaw: The only potential local entrants who could conceivably benefit from delaying BellSouth's entry into long distance are long distance carriers. CLECs with no long distance operations would have no motive to delay BellSouth's entry into long distance. See

73/ It is also significant to note that if MCI were to offer caller ID, BellSouth would charge MCI $8.28, making it impossible for MCI to compete for the same product BellSouth sells to end users for $7.00. See supra Part VII.B.6 (discussing BellSouth pricing of vertical features).

74/ Consistent with the lack of local competition is the fact that BellSouth has been experiencing tremendous income and revenue growth. See "BellSouth Corp.: Net Income Jumps by 25%, On a 15% Rise in Revenue," Wall St. J. (July 22, 1998), B6. Ironically, out of all the states in its region, BellSouth experienced the strongest business access line growth (5.5%) in Louisiana. See G. Woodlief, Prudential Securities, "BellSouth Reports 2Q98 EPS of $0.82 Versus Our $0.81 Estimate" (July 22, 1998) (ex. EE). Strong growth in the closely related (and lucrative) vertical services area was a key component of BellSouth's overall local services growth. See id.

Schwartz Supp. Aff. on behalf of DOJ (CC Docket No. 97-208, ¶ 29 (Nov. 3, 1997)) (hereinafter "Schwartz Supp. Aff."); Baseman Decl. ¶ 76. As DOJ's economic expert notes, this conclusion is borne out by actual experience in non-BOC territories, where there has been no evidence of greater entry into local competition than in BOC territories. See Schwartz Supp. Aff. ¶ 30. Indeed, MCI and other long distance carriers have many compelling business reasons to want to enter the local market (e.g., the local market is twice as big as long distance and more profitable, there are advantages in providing integrated services, and IXCs who also provide local service can avoid inflated access charges). See Henry Decl. ¶¶ 5-8.

Based on MCI's experiences with BellSouth, the only plausible reason for the minute amount of local competition is simply that BellSouth has not opened its market as required by the Act. See Mich. Order ¶ 402. As discussed throughout these Comments, BellSouth has failed to comply with the Act in numerous ways. This failure alone accounts for the absence of competition in the local exchange market. Under its Michigan precedent, the Commission is accordingly bound to find that BellSouth has failed to meet its burden of showing that its application would be consistent with the public interest, convenience, and necessity.

C. The Public Interest Factors Discussed by the Commission in the Michigan Order Require the Rejection of BellSouth's Application.

BellSouth's application is also deficient with respect to many of the specific issues discussed by the Commission in its Michigan Order as relevant to the Commission's public interest inquiry. For example, the Commission specified that the absence or presence of performance standards -- including contractual, self-executing enforcement mechanisms -- would be a component of its public interest inquiry. See Mich. Order ¶¶ 393-94. Yet BellSouth has not established any performance standards, either in its application or elsewhere, to ensure its continuing compliance with market opening measures. See supra Part III. The Commission should state emphatically that BellSouth's shell game on the issue of performance standards is contrary to the public interest, because BellSouth has staved off FCC-established performance standards by pointing to the supposed success of the negotiation process and the ability of state commissions to set standards, while at the same time BellSouth vehemently resisted performance standards in negotiations and opposed state commission action to set standards. See id.

Moreover, BellSouth's unreasonable restrictions on combinations of unbundled network elements means that all of "the various methods of entry contemplated by the 1996 Act" are not truly available in Louisiana. Mich. Order ¶ 391. The Commission should emphasize as part of its public interest analysis that today there are no efficient, nondiscriminatory means available to combine elements, or keep them combined, in order to allow for widespread facilities-based local competition. Because all entry methods therefore are not readily available to competitors -- including the one most likely to facilitate widespread competition in the near term -- granting BellSouth's request to provide long distance would not be in the public interest.

BellSouth's and the LPSC's failure to set any prices for some unbundled network elements and failure to set cost-based prices for many elements is yet another reason that granting BellSouth's application is not in the public interest. See Mich. Order ¶ 396 (state legal requirements may be considered in the course of the Commission's public interest analysis). The LPSC has not established rates for collocation space preparation and other key items, see supra Part VII.A; this uncertainty is a significant impediment to local competition. In addition, BellSouth's high prices preclude use of unbundled network elements as an entry strategy for all residential customers and many business customers. See Wood Decl. ¶ 45.

Finally, BellSouth has engaged in numerous instances of anticompetitive conduct that demonstrate BellSouth's unwillingness to cooperate reasonably with competitors. See Mich. Order ¶ 397 (BOC anticompetitive acts are relevant to the public interest inquiry). For example, BellSouth has been explicitly violating the Commission's rules concerning handling of customer proprietary network information ("CPNI") by contacting customers to solicit "freezes" on their CPNI information in order to make the information unavailable to CLECs, under any mode of access. In order to "unfreeze" a customer's CPNI, BellSouth requires the CLEC to submit a copy of a written authorization. BellSouth then calls the customer to verify the written authorization, after which BellSouth will then send a hard copy of the information by facsimile, a deliberately anticompetitive process that takes from 7 to 30 days to complete. See Henry Decl. ¶ 63. This "freeze" technique is a classic anticompetitive maneuver and is in express violation of the Commission's rules concerning treatment of CPNI. See Second Report and Order and Further NPRM, CC Docket No. 96-115, ¶ 140, 13 F.C.C.R. 8061 (rel. Feb. 26, 1998) (prohibiting carriers from including any statement encouraging a customer to "freeze" third party access to the customer's CPNI). It is most probative, however, as to BellSouth's hostile attitude toward competitors.

In addition, BellSouth appears to view the continuing restriction on its ability to provide long distance services as nothing more than a formality. In May 1998, BellSouth filed terms and conditions for a market trial in Alabama that involved providing long distance services via payphones. See Letter from Paula D. Smith, BellSouth, to Alabama PSC (May 8, 1998) (ex. FF). BellSouth subsequently withdrew this request without explanation. See Letter from Robert W. Burnett, BellSouth, to Alabama PSC (July 1, 1998) (ex. FF). BellSouth's cavalier attitude toward the long distance restriction does not bode well for its willingness to open its market to competitors.

D. Granting BellSouth's Application Prior to the Development of Vibrant, Broad-Based Local Competition Would Permit BellSouth to Discriminate Against Its Competitors.

As in its previous applications, BellSouth dismisses the possibility that it would engage in discrimination against its local and long distance competitors. See BST Br. 91-105. BellSouth contends that a number of factors -- including pricing reform, revised regulations, and technological developments -- will preclude it from engaging in anti-competitive, discriminatory behavior if it is allowed into long distance. Yet none of these factors adequately constrains BellSouth. It is in the self-interest of BellSouth to prevent as much local competition as possible and to leverage its local monopoly into the downstream long-distance market. See Hall Decl. ¶¶ 56-57.

1. **Inflated Access Charges.** Most egregiously, BellSouth has a built-in, insurmountable advantage over its competitors in the long distance market. As long as BellSouth is permitted to levy access charges that are many multiples of BellSouth's costs, BellSouth will effectively be able to charge its competitors much more for the essential input of local access than BellSouth will incur internally when its long-distance affiliate uses BellSouth's network for access. Despite the Commission's access charge reforms, access is still priced well above cost and is likely to remain so, because local telephone service remains a monopoly market.[75/] In fact, BellSouth exacts the maximum access charges permitted by law.[76/] MCI currently estimates that interstate access rates are priced approximately $10 billion above forward-looking economic cost on a nationwide basis.[77/]

Access charges that are above cost harm the public interest in at least two significant ways. First, inflated access charges create a severely uneven playing field in which the BOCs will have significant advantages in competing against other long distance providers, advantages that are unrelated to the BOCs' cost efficiency or the quality of their products. For example, if permitted to offer long distance before access charges are lowered to cost, BellSouth would be able to use non-linear pricing strategies (e.g., volume discounts) that competitors would never be able to match. See Baseman Decl. ¶ 30 (estimating that the competitive advantage due to access mispricing is approximately ten percent of long-

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75/ See Access Charge Reform Order ¶ 265 (FCC 97-158) (predicting that access charges will be reduced to cost through competition, including competition using combinations of UNEs).

76/ See MCI Telecommunications Corp., "Absence of Competition in the Exchange Access Market," filed in CC Docket No. 96-262, at 26 & n.55 (May 7, 1998) (ex. GG). BellSouth's total access charge per conversation minute was 3.74 ¢ as of July 1, 1998; this charge was the second highest access charge among all of the BOCs, trailing only that of NYNEX. See FCC, Trends in Telephone Service 6, tab. 1.4 (July 1998).

77/ See "Absence of Competition in the Exchange Access Market," at 2 & n.3 (ex. GG).

distance revenues, excluding access payments); see also Kelley Decl. p. 18 (ex. I hereto).[78/] Clearly, permitting BellSouth's long-distance entry under these circumstances would create an uneven playing field that would be explicitly contrary to one of the tenets of the "procompetitive entry standard" endorsed by DOJ -- that "all parties are given an opportunity to compete on the merits." Schwartz Aff. ¶ 71 (CC Docket No. 97-121 (May 14, 1997)) ("Schwartz Aff.").[79/]

Second, inflated access charges are economically inefficient. Prior to the onset of widespread local competition, inflated access charges permit only the BOC (who alone incurs only the economic cost of access) to price efficiently in the long distance market. All other competitors experience the artificially high price of access set by the BOC. This distortion will induce firms to bypass the local exchange inefficiently (e.g, through dedicated access or through the use of Internet telephony), rather than purchasing access from the lowest cost supplier. See Baseman Decl. ¶ 29; Kelley Decl., pp. 4-6.

Although section 272(e)(3) requires imputation of access charges by the long distance affiliate, imputation is only a bookkeeping measure that does not provide any real protection to competitors. If permitted to offer long distance, a BOC's long-distance affiliate would pay the BOC's local exchange affiliate for the exchange access fees that the long-distance affiliate incurred. Yet the BOC's corporate entity as a whole will only experience the actual, internal costs of access. See Baseman Decl. ¶¶ 32-34;

78/ The BOCs' access pricing advantage can be seen graphically in NYNEX's so-called "snowbird" ads that offered to provide long distance service at cheaper rates between Arizona and New York (13 cents/minute) than between Arizona and Nevada (17 cents per minute). Because NYNEX incurred only actual access costs at its end of the calls between Arizona and New York, it could offer much lower rates than between Arizona and Nevada, where the incumbent LECs would charge NYNEX the same inflated access charges that other long distance carriers incur. See, e.g., Arizona Republic, Sept. 9, 1996, at A10 (advertisement) (ex. HH).

79/ Because a BOC would forego access revenues from rival IXCs whenever it captures long distance market share, some have argued that a BOC would not engage in a price squeeze. Using the access charge advantage can be profitable, however if: (1) access minutes increase substantially due to lower prices for long distance services and/or a substitution from special to switched access; or (2) rival IXCs use special or competitive switched access. In the first instance, the BOC would therefore gain more in long distance revenue than it would lose in access charges. In the second, a BOC would experience no lost opportunity costs. See Kelley Decl., pp. 20-21.

Kelley Decl., p. 18. In addition, a BOC would be tempted to impute unreasonably low costs to its long distance affiliate. See Kelley Decl., pp. 18-19 (discussing findings by the New York PSC concerning improper imputation of costs for intraLATA service by New York Telephone). Any regulatory attempt to police imputation will necessarily be limited in its effectiveness, due to resource limitations of regulatory bodies and the fact that competition may be irreversibly harmed by the time any misconduct is remedied. See id., pp. 19-20.[80/]

2. Technical Discrimination. BellSouth argues that reporting requirements and the sophisticated nature of its competitors will make technical discrimination impossible. See BST Br. 96-99. In the rapidly evolving telecommunications arena, however, technical discrimination with respect to the introduction of new services or equipment is even more likely than ever. Whereas prior to BOC participation in long distance, a BOC would have incentives to cooperate with long distance carriers in

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80/ BellSouth argues that the Commission concluded in its BOC Non-Dominance Order that the imputation of access charges, along with other regulatory measures, obviates any concern over access charge advantages, including price squeezes (that is, the practice of charging competitors high prices for necessary inputs such as exchange access while offering low prices for competitive services such as long distance, thus forcing competitors to either lose customers or to operate at a loss). See BST Br. 96. The Commission, however, specifically acknowledged the possibility of such price squeezes in the BOC Non-Dominance Order but reasoned that "competition . . . in the provision of exchange access services" would eventually provide protection against price squeezes. Second Report and Order in CC Docket No. 96-149 and Third Report and Order in CC Docket No. 96-61, ¶ 130, 12 F.C.C.R. 15756, 15832 (rel. Apr. 18, 1997).

Yet vibrant, broad-based competition has yet to develop to drive access charges to cost. See "Absence of Competition in the Exchange Access Market" (ex. GG). The Eighth Circuit's July 1997 decision invalidating the Commission's pricing regulations for interconnection and unbundled network elements, together with its decision on rehearing to invalidate the Commission's rule concerning nondiscriminatory provision of existing combinations of network elements, have increased even further the potential that incumbent local exchange carriers such as BellSouth will be able to engage in price squeezes. Indeed, in its decision approving Bell Atlantic's merger with NYNEX, the Commission noted that "we are less convinced today that we may generally rely on the availability of interconnection and UNEs to provide alternatives to exchange access services in light of the Eighth Circuit's decision" and to thereby prevent price squeezes. BA/NYNEX Merger Order ¶ 117. The Commission ruled, however, that the additional safeguards agreed to by Bell Atlantic -- safeguards absent from BellSouth's application (and still not implemented by Bell Atlantic) -- would sufficiently prevent price squeezes. Nevertheless, as discussed below, regulation is no more a panacea for price squeezes than it is for other kinds of anticompetitive abuses.

introducing new features (as the added traffic would raise its revenues), a BOC that is providing long distance service itself would have every incentive to frustrate efforts by its long distance competitors to introduce new features. See Baseman Decl. ¶ 21.[81] Technical collaboration between companies is difficult to monitor and regulate; the uncertainties involved in implementing new technologies create many opportunities for incumbent local carriers to mask anti-competitive discrimination behind claims of technical infeasibility. See Baseman Decl. ¶¶ 21-24.

3. Effectiveness of Regulation. Regulation, while important in fostering local competition, is not a sufficient constraint on the behavior of the BOCs. Congress rejected any contrary claim when it refused to allow immediate BOC provision of in-region interexchange services based only on a promise to comply with section 272. The Commission has noted the limitations of regulation, observing that "even while subject to regulation, a firm can exercise market power if, for example, (1) a price cap fails to lower prices for services to competitive levels, (2) a bundled product offering, such as combined local and long distance service, is only partially price-regulated, or (3) quality is difficult to specify and monitor." BA/NYNEX Merger Order ¶ 11.

Moreover, BOCs have many opportunities to frustrate or postpone the impact of regulations. A determined incumbent can significantly delay the onset of competition by raising numerous meritless challenges to regulatory proceedings and arbitrations;[82] BellSouth appears to have taken exactly this approach in its region. In these circumstances, regulation is not effective, because it takes too long to have an effect and remedies (injunctive as well as compensatory or deterrent) are inadequate. See generally Hall Decl. ¶ 60 (noting delays attendant to remediation proceedings). DOJ's economic expert has summarized the issue forcefully: "Allowing BOC entry before the main systems for local

81/ Obviously, at no time would a BOC have an incentive to cooperate with a CLEC in the introduction of new technologies, especially absent the long distance entry incentive.

82/ The FCC implicitly acknowledged the limitations of regulation when it discussed the need for performance standards triggered by self-executing remedies to avoid lengthy and contentious negotiations or legal proceedings with BOCs. See Mich. Order ¶¶ 392, 394.

competition are in place and attempting to mandate their implementation ex post would embroil us in a regulatory morass as it has in the past: having little incentive to comply, the BOCs would fight every requirement, and regulators would be hard pressed to dispute them especially as regards implementation of new arrangements." Schwartz Supp. Aff. ¶ 42.

The availability of penalties is ineffective as a means of securing competition against a determined monopolist. For example, BOCs have frequently refused to obey regulatory orders while such orders are under appeal; in the long distance market, this time-lag between regulation and enforcement would permit the BOCs to build substantial market share using discriminatory tactics. See Baseman Decl. ¶ 18. This is one of the reasons why Congress designed section 271 to require that local competition become established before the BOCs are permitted to provide in-region long distance services, instead of relying on after-the-fact remedies.

E. Consumers Are Not Disadvantaged by the Absence of a Local Monopolist From the Highly Competitive Long-Distance Market.

In sharp contrast to its argument that the local market is sufficiently competitive, BellSouth contends that the long distance market is characterized by oligopoly and lack of competition. See BST Br. 77-90. BellSouth has a very peculiar view of competition, in which the Louisiana local exchange market -- with BellSouth's market share at over 99 percent and static prices -- represents real competition, while the long distance market -- with hundreds of carriers, broadly distributed market shares, and declining prices -- represents limited competition. More objective observers view the long distance market somewhat differently, as rampantly competitive. As Chairman Kennard stated, "Long distance rates fell 5.3% between January 1996 and November 1997. Long distance prices are now the lowest they have ever been. And everyday, yet another long distance company interrupts your dinner to offer you an even better deal." http://www.fcc.gov/commissioners/kennard/ (downloaded July 16, 1998).

BellSouth attempts to show that its provision of long distance service in Louisiana would bring significant economic benefits to the long distance market in general and to Louisiana consumers in particular. Central to its thesis are the notions that the long distance market is not presently competitive, that experience with ILECs' entry into long distance has been favorable, and that BellSouth is well-situated to provide long distance services in Louisiana. BellSouth's claims of substantial increases in consumer welfare as the result of its entry into long distance are spurious. Consumers will benefit only if local competition in Louisiana develops prior to BellSouth's entry. The risks to local competition from premature BOC entry into long distance far exceed any alleged benefits from any increase in long distance competition resulting from that entry.

1. The Long Distance Market is Already Competitive. As Professor Robert Hall discusses, competition in the long distance market is robust. Hall Decl. ¶¶ 120-81. Moreover, this competition far outpaces that in the local market. See Schwartz Supp. Aff. ¶ 18. The major interexchange carriers have consistently passed on decreases in access charges to their customers: Revenue per minute (excluding access charges) has exhibited a steady decline in the last decade. See Hall Decl. ¶¶ 126-31; see also Hall Reply Decl. ¶ 23 (CC Docket No. 97-211 (July 8, 1998)) ("Hall 7/8/98 Decl.") (Ex. F). Indeed, MCI and other long distance carriers provided detailed information to the Commission earlier this year demonstrating that they had passed through savings well in excess of the access charge reductions mandated by the Commission in May 1997. MCI, for example, passed through all access charge savings to its customers (totaling $756 million) and an additional $467 million in savings.[83/]

Moreover, BellSouth has no response to a gaping hole in its argument: If long distance competition were as limited and prices were as high as BellSouth claims, BellSouth and the other BOCs would have leapt at the opportunity provided in the 1996 Act to offer out-of-region long distance

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83/ See Letter from Jonathan B. Sallet, Chief Policy Counsel, MCI, to Hon. William E. Kennard, Chairman, FCC (Mar. 2, 1998) (ex. II); see also Letter from J. Richard Devlin, General Counsel and External Affairs, Sprint, to Hon. William E. Kennard, Chairman, FCC (Mar. 4, 1998) (ex. II); Letter from Mark C. Rosenblum, Vice President, Law and Federal Government Affairs, AT&T, to Hon. William E. Kennard, Chairman, FCC (Mar. 5, 1998) (ex. II).

services immediately -- an opportunity that the BOCs have declined to pursue despite the fact that they have obtained very favorable contracts to resell interexchange services throughout the country. Finally, long distance competition has benefited all customers, including low-volume callers. Callers of all sizes and types have taken full advantage of discount and flat-rate plans. See Hall Decl. ¶¶ 142, 149-52.

2. ILECs have not enhanced consumer welfare in long distance markets.

BellSouth argues that SNET's long distance rates in Connecticut are below those of AT&T. BST Br. 82-85. BellSouth omits to mention that the AT&T rates it is referring to are basic rates and that SNET's rates are significantly higher than the discount rates that are available from numerous carriers. See Hall Decl. ¶ 90. And SNET's intraLATA toll rates are significantly above those of the major interexchange carriers; ironically, its intraLATA toll rates are even above its competitors' interLATA toll rates. See id. ¶ 91. Moreover, SNET's rates do "not come close to the 9 cents per minute that any Connecticut customer, irrespective of monthly purchases, can obtain from MCI by placing the order through MCI's Internet site, www.MCI.com, and providing a credit card number for billing." Hall 7/8/98 Decl. ¶ 13.

While SNET may have been able to capture rapidly a large share of the long distance market in Connecticut, its success is not the result of having brought added price competition to the state, but is due to discriminatory acts against its competitors and not to superior prices or service.[84/] This analysis is confirmed by DOJ's economic expert, who has debunked BellSouth's claim that incumbent LECs such as SNET and GTE have significantly lowered prices for consumers as the result of the LECs' entry into long distance. See Schwartz Supp. Aff. ¶¶ 81-83.

84/ SNET has captured a large share of AT&T customers largely by terminating its joint billing agreement with AT&T. See Hall Decl. ¶ 92; Baseman Decl. ¶ 25. In addition, since entering long distance, SNET has been unwilling to allow the customers of its competitors in the interexchange market to sign up for intraLATA presubscription. (SNET has made an exception to this policy for Sprint, which carries SNET's long distance traffic.) SNET has also engaged in an anticompetitive PIC freeze campaign, which MCI has filed suit in federal court to halt. See Complaint, MCI v. SNET, Civil Action No. 397CV00810-AHN (D. Conn. filed Apr. 29, 1997). In short, the primary effect of SNET's entry has been to decrease consumer welfare. See Hall Decl. ¶ 92.

3. BellSouth's claimed advantages will result in few benefits to consumers. BellSouth devotes a significant portion of its brief to trumpeting the benefits it claims it will bring to long distance competition in Louisiana. See BST Br. 85-90. Rhetoric aside, the most concrete example it can articulate is a promised five percent rate reduction off AT&T's non-discounted rates. In other words, BellSouth intends to position itself as a high-price, not a low-price carrier in Louisiana, because numerous carriers provide rates that are much more advantageous than AT&T's basic rates. Moreover, many of the efficiencies that BellSouth theoretically might possess could be captured through contract arrangements with other carriers. See Hall Decl. ¶ 75; id. ¶ 218 (outsourcing of business services is a growing trend in the U.S. economy).[85/]

4. Purported consumer preferences for bundling would hamper local competition if BellSouth is allowed to provide long distance prematurely. To the extent that consumers in fact prefer to receive bundled telecommunications services (as BellSouth alleges in its brief, at 87-89), this preference would weigh strongly against permitting BellSouth's entry into long distance while BellSouth has a unique and unjustified ability to provide bundled local and long distance services to every customer in its region. Immediate entry would therefore give BellSouth a wholly artificial and illegal advantage in competing for long distance customers, and unfairly reducing the base of long-distance customers would make entry into local markets more difficult and expensive.

BellSouth already serves virtually every customer in the relevant market (the BellSouth service area in Louisiana), and the moment it receives in-region interexchange authority, BellSouth will immediately be able to offer each customer facilities-based local services bundled with resold long distance (which is available to BellSouth at very advantageous rates due to the highly competitive long

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85/ In addition, BellSouth's brief claims that numerous economic benefits will flow from the approval of its application to provide in-region long distance, including significant decreases in long distance rates and increases in economic activity. See BST Br. 90. Yet the studies on which BellSouth bases its claims are fundamentally flawed. See Hall Decl. ¶ 231 (discussing WEFA study). Professor Hall's analysis is supported by the detailed review of BellSouth's economic forecasts conducted by DOJ's economic expert. See Schwartz Supp. Aff. ¶¶ 61-85.

distance market). By contrast, none of BellSouth's competitors provides interLATA services to more than a portion of the relevant market, and local competition (both facilities-based and resale) is barely in its incipiency in Louisiana. Whereas BellSouth will be able to take immediate advantage of a well-established and smoothly functioning wholesale market for long distance and to offer robust long distance services to every single one of its local customers on the day it obtains in-region authority, its competitors will be forced to struggle with the many uncertainties and difficulties involved in inaugurating local competition and will not be able to offer ubiquitous local service throughout Louisiana. See Schwartz Decl. ¶ 163; Baseman Decl. ¶ 65.

The way to maximize consumer benefits is to let competition for local services develop first so that competition for bundles of local and long distance service can occur. Of course, if BellSouth were allowed into the in-region long distance market now, the likelihood that it would cooperate in making resold and other local services available consistent with the requirements of the Act would approach zero.

F. Permitting BellSouth to Enter Long Distance As a Method of Encouraging Local Competition in Louisiana Would Be Contrary to the 1996 Act.

One of BellSouth's most perverse arguments is that it should be allowed to offer long distance now to spur local competition in Louisiana. See BST Br. 105-06. BellSouth has things precisely backward. BellSouth's premature entry into long distance in Louisiana would devastate the incipient local competition in the State and harm the ability and incentive of interexchange carriers to enter local markets. That is why the Commission already rejected this argument. SC Order ¶ 25.

BellSouth's approach would be directly contrary to Congress' intent. The Act contains elaborate provisions, including the competitive checklist and the public interest test, designed to ensure that competition in local markets is established before opening the in-region long distance markets to the BOCs. In the words of Representative Forbes, "[B]efore any regional Bell company enters the long distance market, there must be competition in its local market." 142 Cong. Rec. E204 (Feb. 23, 1996).

The Act thus requires the establishment of local competition before BOC long distance entry, not afterwards.

G. The Requirement to Analyze Local Competition Under the Public Interest Test Is Not Subsumed by the Competitive Checklist.

BellSouth continues to raise the hackneyed and wholly implausible argument that Congress intended that the Commission consider only the competitive checklist in determining whether a BOC's long distance application would benefit local competition. See BST Br. 74. BellSouth raises this argument despite the fact that the Commission expressly rejected it as inconsistent with the language, structure, purpose and legislative history of the Act. See Mich. Order ¶¶ 385-90.

CONCLUSION

For the foregoing reasons, BellSouth's application to provide in-region interLATA services in Louisiana should be denied.

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August 4, 1998

CERTIFICATE OF SERVICE

I, Thomas D. Amrine, hereby certify that I have on this 4th day of August 1998, caused a true copy of the foregoing "Comments of MCI Telecommunications Corporation" to be served upon the parties on the attached list by hand, except where noted by Federal Express.

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